

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Kenneth J. LuKacher on 5/16/2011.

The application has been amended as follows: (the last communication filed on 3/2/2011).

**Applicant has cancelled claims 31-32, 34, 36** and reserved the right to file a continuation application with the cancelled claims.

**Claim 4, line 9**, "a path through at least said opening of said guide tube for extending a guide wire;" was replaced by - - **a path through at least said opening of said guide tube; a guide wire extendable along at least said path; and - -**

**Claim 29, lines 3-11**, "a shaft having an end; a blade at said end movable to extend out of said shaft to cut tissue when present outside of said instrument; a member which guides movement of said blade at said end out of said shaft, wherein said member is non-movable with respect to said shaft, and said blade is movable with respect to said member; and a shuttle external of said guide tube having a slot retaining said blade, in which said shuttle rides along said member to extend said blade from said shaft and to retract said blade back into said shaft." Was replaced by - - **a housing; a shaft extending from said housing to an end;** a blade at said

end movable to extend out of said shaft to cut tissue when present outside of said instrument; **a guide member** which guides movement of said blade at said end out of said shaft, wherein **said guide member has an opening through which a guide wire is receivable, and said guide member is non-movable with respect to said shaft, and said blade is movable with respect to said guide member; and a shuttle external of said guide member having a slot retaining said blade, in which said shuttle rides along said guide member to extend said blade from said shaft and to retract said blade back into said shaft.** - -

**Claim 30, lines 1-2,** “wherein said member has a passage for extending a guide wire through said member.” Was replaced by - - **wherein said guide member represents a tube, said opening extends through said tube, and said instrument further comprises a path through at least said guide tube for extending said guide wire.** - -

**Claim 33, line 1,** “The instrument according to Claim 31” was replaced by - - The instrument according to Claim 29 - -

**Claim 35, line 1,** “The instrument according to Claim 31” was replaced by - - The instrument according to Claim 29 - -

- This Notice of Allowance is responsive to Applicant’s Amendment filed 3/2/2011. The amendment and remarks, page 7, filed therein has overcome the rejection of claims 1-3, 6-7, 10, 15-18, 25-28, 30-31 under 35 U.S.C. 102(b) mailed out 11/29/2010. Therefore, the rejections of the claims have been withdrawn. Further, the previous obvious type double patenting rejection of US application 10/365,809 (now US Patent 7,481,817) mailed out 7/13/2007 has been withdrawn in view of

applicant's amendment filed on 11/15/2007. Further, the current amended claims are patentably distinct from the US Patent 7,481,817.

## REASONS FOR ALLOWANCE

2. **Claims 2-10, 15-18, 20-24, 26-30, 33 and 35 are allowed.**

3. The following is an examiner's statement of reasons for allowance: **Claim 4** has not been rejected using prior art because no references, or reasonable combination thereof, could be found which discloses or suggests an instrument for cutting tissue guided along a guide wire comprising: *a shaft extending from a housing to a distal end of the instrument, said shaft having at said distal end an opening to outside of said instrument; a guide tube extending from said shaft through said opening of said shaft in which said guide tube comprises an outer tubular surface, two ends, and an opening extending through said guide tube between said ends of said guide tube; a path through at least said opening of said guide tube; a guide wire extendable along at least said path; and means for longitudinally cutting tissue guided along the outer tubular surface of said guide tube through said opening of said shaft, said means comprising a blade extendable and retractable through said opening of said shaft to cut tissue when present outside of said instrument, wherein said longitudinally cutting means further comprises a blade shuttle attached to said blade having a longitudinal channel within which said guide tube is located to linearly guide said blade shuttle travel along the outer surface of said guide tube, in combination with the rest of the claimed limitations as set forth in claim 4.*

**Claim 8**, the prior arts do not teach the invention including: *a guide tube at a distal end having an outer tubular surface which extends through an opening in which a guide wire is*

Art Unit: 3731

*receivable through said guide tube; and a movable blade shuttle comprising a blade, and a longitudinal channel receiving said guide tube to enable said guide tube to linearly guide said blade shuttle travel riding along the outer tubular surface of said guide tube in said channel when said blade shuttle is extended from said opening or retracted back through said opening, wherein said guide tube extends through said opening of a shaft beyond said shaft and said blade shuttle when retracted, to define a path along which said blade shuttle is extendable and retractable, in combination with the rest of the claimed limitations as set forth in claim 8.*

**Claim 29**, the prior arts do not teach the invention including: *a shaft extending from a housing to an end; a blade at said end movable to extend out of said shaft to cut tissue when present outside of an instrument; a guide member which guides movement of said blade at said end out of said shaft, wherein said guide member has an opening through which a guide wire is receivable, and said guide member is non-movable with respect to said shaft, and said blade is movable with respect to said guide member; and a shuttle external of said guide member having a slot retaining said blade, in which said shuttle rides along said guide member to extend said blade from said shaft and to retract said blade back into said shaft, in combination with the rest of the claimed limitations as set forth in claim 29.*

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR NGUYEN whose telephone number is (571)272-4699. The examiner can normally be reached on 8.00-5.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VICTOR X NGUYEN/  
Examiner, Art Unit 3731